

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71060; File No. SR-NASDAQ-2013-151)

December 12, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Delay Implementation of Recent Changes to Rule 4120(c)(7)(C)

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that, on December 4, 2013, The NASDAQ Stock Market LLC (“NASDAQ” or “Exchange”), filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a proposed rule change to delay implementation of recent changes to Rule 4120(c)(7)(C) to allow market participants the opportunity to participate in testing of the new process

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to delay the implementation date of recently-approved changes to the halt release process under Rule 4120(c)(7)(C). On November 14, 2013, the Exchange filed an immediately effective rule change to amend Rule 4120(c)(7)(C) to modify the parameters for releasing securities for trading upon the termination of a trading halt.³ The Exchange filed the proposal pursuant to subparagraph (f)(6) of Rule 19-4 under the Act,⁴ which requires, among other things, that changes filed pursuant to this subparagraph not become operative for thirty days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the thirty-day operative delay under subparagraph (f)(6) of Rule 19b-4,⁵ noting that the proposed change is designed to protect market participants from seemingly erroneous pricing of halted securities upon resumption of trading, and that, it is possible, particularly with regard to the IPO release process, for a disruptive order to skew the release price far from what was anticipated by market participants based on the indicative prices published by the Exchange prior to the calculation.⁶ On November 21, 2013, the Commission issued public notice of the filing, granting waiver of the pre-operative delay.⁷

³ Securities Exchange Act Release No. 70911 (November 21, 2013), 78 FR 71011 (November 27, 2013) (SR-NASDAQ-2013-143).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ Id.

⁶ Supra note 3.

⁷ Id.

The Exchange is proposing to delay implementation of the change for a brief period to allow for adequate user testing of the new process. NASDAQ has scheduled a User Acceptance Test (“UAT”) for December 14, 2013, during which NASDAQ will provide market participants with the opportunity to participate in simulated halts of test securities using the new process. NASDAQ plans to implement the new process effective with the beginning of regular trading hours on December 16, 2013. Although NASDAQ does not anticipate any issues with the test, should the UAT uncover issues with the new halt release process, NASDAQ will further delay implementation of the process and provide public notice thereof prior to the anticipated implementation date of December 16, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁸ in general, and with Section 6(b)(5) of the Act,⁹ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The brief delay in implementing the new process as discussed herein promotes these goals by ensuring market participants have adequate opportunity to test their systems against the new process in a simulated trading environment. NASDAQ believes that providing adequate testing will allow NASDAQ to identify any potential issues with its revised process, while also allowing market participants to identify potential problems with their

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

systems. As a consequence, the proposal will protect investors by avoiding potential market disruptions, which may occur should the new process not be adequately tested in a simulated trading environment. The Exchange also believes that the proposal is consistent with Section 6(b)(5) of the Act because it will avoid market participant confusion that may be caused by having a change to a rule that is immediately operative, but not yet implemented. NASDAQ notes that it continues to believe in the importance of implementing the amended process as soon as reasonably practical and will do so upon successful completion of testing as described above.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that the proposal is irrelevant to competition because it is not driven by, and will have no impact on, competition.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹ Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange’s intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission is waiving this five-day pre-filing requirement.

filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.¹²

A proposed rule change filed under Rule 19b-4(f)(6)¹³ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁴ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the five-day pre-filing requirement and the 30-day operative delay so that the proposal may become effective and operative immediately. According to the Exchange, the proposal is designed to clarify when the changes to Rule 4120(c)(7)(C) that are currently both effective and operative will be implemented, thus avoiding any market participant confusion regarding the implementation, and ensuring that NASDAQ's rules are consistent with its operations. Thus, the Exchange believes that it is in the interest of protecting investors to briefly delay implementation of the recent changes to Rule 4120(c)(7)(C). Based on the Exchange's statements, the Commission believes that waiving the five-day pre-filing requirement and 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposal as operative upon filing.¹⁵

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

¹² 17 CFR 240.19b-4(f)(6).

¹³ 17 CFR 240.19b-4(f)(6).

¹⁴ 17 CFR 240.19b-4(f)(6)(iii).

¹⁵ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁶ of the Act to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2013-151 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2013-151. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those

¹⁶ 15 U.S.C. 78s(b)(2)(B).

that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2013-151 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Kevin M. O'Neill
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).